



October 12, 2006

Linda Cole  
Chief, Long Term Care Policy and Planning  
Maryland Health Care Commission  
4160 Patterson Avenue  
Baltimore, Maryland 21215

RE: Comments to State Health Plan for Facilities and Services

Dear Ms. Cole:

LifeSpan appreciates the opportunity to comment on the State Health Plan for Facilities and Services: Nursing Home, Home Health Agency and Hospice Services.

As stated on page 1 of the document, the mission of health planning is to "plan to meet the current and future health care needs of all Maryland residents by assuring access, quality, and cost-effectiveness." This type of planning is extremely important given that the over 65 population is expected to more than double by the year 2030. Without early and sufficient planning, Maryland will fall short of meeting the needs of this growing population.

#### **Comments Regarding the Statement of Issues and Policies**

With regard to the policy goals under the continuum of goal and in Policy 4.0 (innovation), LifeSpan would like to see a provision added that the Commission will examine the barriers encountered by nursing homes in updating their facilities and developing new "quality care" programs. Issues to examine would include State and federal regulations under CMS and OHCQ, zoning ordinances and certificate of need provisions.

In the quality of care section, the Nursing Home Performance Evaluation Guide is referenced as a tool for reporting current data on nursing home services and quality of care to assist consumers in decision-making regarding long-term care services. LifeSpan would like to see an analysis of the effectiveness of this guide. This can be achieved by adding a question to the recently implemented family satisfaction survey. The question could be: "Did you consult or refer to the Nursing Home Performance Evaluation Guide in deciding what facility to place your family member?" It is not enough to just examine the distribution of the guide. The State must ensure that the guide is being used for its

intended purpose and that there is value in producing it, especially given the federal "Nursing Home Compare" website. It would also provide insight as to whether the State needs to market the guide differently.

In the consumer choice section, LifeSpan supports the policy goals but believes that there needs to be more of an effort in consolidating and streamlining the activities of State agencies. This should be added to Policy 3.0. Currently, data is being produced in a variety of forms by different State agencies. For example, OHCQ is in the process of developing a Uniform Disclosure Form by assisted living. MHCC uses information from the assisted living long-term care survey to create a web-based system to allow consumers to located facilities. Medicaid collects data from nursing home reports and the Department of Aging is piloting two sites for single-point of entry for consumers. This information needs to be streamlined and advertised to consumers so that there is one avenue for them to go to for information.

### **Certificate of Need**

While LifeSpan applauds the removal of many duplicative provisions, LifeSpan is still concerned that many of the new requirements in these sections duplicate the role of the Office of Health Care Quality and add unnecessary administrative burdens to facilities. Specifically:

- **Community-Based Services**

Under the community-based services section of the nursing home standards, an applicant must demonstrate commitment to providing community-based services and to minimizing the length of stay for each resident. To do so, an applicant must provide documentation that the applicant distributed information about the existence of alternative community-based services to every prospective. A similar requirement already exists under Section 15-135 of the Health-General Article, which requires social workers in nursing homes to inform residents upon admission and at their request about the availability of community-based services. In addition, LifeSpan would like clarification on what MHCC means by "permitting access to the facility for all "Olmstead" efforts." Furthermore, LifeSpan would like to understand how MHCC would determine "significant" progress in discharging nursing home residents to alternative community-based programs.

- **Facility and Unit Design**

LifeSpan is concerned that it would be difficult for a facility "to identify the special care needs of the resident population it serves or intends to serve and demonstrate that its proposed facility and unit design features will best meet the needs of that population." Facility populations can fluctuate. This seems as if it could be applied very arbitrarily. In addition, for a facility to have to "cite from the long term care literature on what types of design features have been shown to best serve those types of residents" seems onerous. Is there a correct standard for "long-term care literature"?

In addition, several places in the document refer to the applicant not having an outstanding Level G or higher deficiency. First, this could be a “catch-22” for facilities. Many facilities are now in need of renovation. Renovated facilities may have the effect of increasing quality of care. However, under this plan, a facility with a Level G may not be able to renovate. This does not seem to be in the best interests of residents. In addition, there needs to be an awareness that a CON application can take months to be finalized. What happens if a Level G deficiency is given during that time? There is also no acknowledgement of the fact that many facilities appeal deficiencies and that process can be lengthy as well. The issue of deficiencies has always been under the purview of OHCQ.

With regard to the requirement that an applicant seeking CON to establish, expand, renovate or replace a nursing home to serve an equitable proportion of Medicaid-eligible individuals in the jurisdiction or region needs to be looked at on a case by case basis.

### **Hospice**

LifeSpan supports the changes included under hospice services concerning continuing care retirement communities (“CCRCs”). The concept of a CCRC is to provide its residents with the continuum of care. This continuum should include hospice services. This new requirement will basically provide CCRC residents with a choice of hospice care providers and will allow them to remain in their “medical home,” if they so decide.

LifeSpan does not believe that this requirement will harm existing hospice programs. Again, consumer choice should be the State’s main concern. With that stated, the language in this requirement is very strict. Most importantly, an applicant will have to demonstrate quantitatively that there exists an unmet need that it intends to address. Furthermore, the applicant must show that it will present a cost-effective alternative to the CCRC’s current practice of contracting or referring clients to existing hospice programs. The CCRC would also have to provide each person referred for hospice care with a list of all general hospice programs. Therefore, this section does not require a CCRC resident to choose a hospice service operated by a CCRC; it only provides the resident with another choice.

LifeSpan appreciates the opportunity to comment and looks forward to working with MHCC on our concerns and with the implementation of the State Health Plan.

Sincerely,

Danna Kauffman  
Vice President of Public Policy